

**Harrah's Illinois Corporation and Local 150, International Union of Operating Engineers, AFL-CIO, Petitioner.** Case 13-RC-19062

November 24, 1995

**DECISION ON REVIEW AND ORDER**

BY CHAIRMAN GOULD AND MEMBERS COHEN  
AND TRUESDALE

On February 17, 1995, the Acting Regional Director for Region 13 issued a Decision and Direction of Election finding a unit of all full-time and regular part-time maintenance trade employees at the Employer's Joliet, Illinois riverboat complex to be an appropriate unit. Thereafter, in accordance with Section 102.67(b) of the Rules and Regulations of the National Labor Relations Board, the Employer filed a timely request for review of the Acting Regional Director's decision. The Employer argued that the unit in which the election was directed was inappropriate because it should also include other employees in the Employer's environmental service (EVS) and maintenance department.

By Order dated March 24, 1995, the Board granted the Employer's request for review. The Employer and the Petitioner submitted briefs on review.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the Acting Regional Director's decision in light of the record and briefs, and has decided to reverse the Acting Regional Director's finding that a unit limited to maintenance employees is appropriate.

The Employer has operated a riverboat complex on the Des Plaines River since May 1993. The complex includes two riverboats. It also includes a pavilion, which serves as the Employer's base of operations and includes food and beverage facilities, a lounge with a stage, a gift shop, administrative offices, and ticketing for boat cruises. The Employer also occupies two administrative offices in Joliet: the E. B. Brown building, which houses administrative functions and shops for maintenance employees and heavy-duty cleaners; and the Scott Street building, which is the principal administrative office.

The Employer's operations consist of five departments: casino operations, marine operations, food and beverage, surveillance, and EVS and maintenance employees. The EVS and maintenance department, under the overall supervision of EVS and Maintenance Manager Richard Simms, has approximately 115 employees classified as maintenance, heavy-duty cleaners, and cleaners. Within the maintenance department, maintenance and heavy-duty cleaners are grouped together for

administrative and payroll purposes, and cleaners have a separate budget and payroll department.<sup>1</sup>

The Petitioner seeks to represent the 16 workers classified as maintenance employees, whose responsibilities are to build, repair, and maintain the facility. Their work has included building tables, token (tip) boxes, and token carriers; changing light bulbs; repairing and installing lighting fixtures; repairing door latches; building and installing cabinets; cleaning gaming tables; cleaning and balancing roulette wheels; maintaining and troubleshooting the heating, air conditioning, and ventilation systems; installing plumbing and faucets; and painting the facility. Periodically, maintenance employees work on special projects, such as installing Christmas decorations and building offices. Some of these employees possess special skills. There are, for example, two skilled painters, an electrician, a skilled and licensed plumber, a locksmith, three employees skilled in carpentry and cabinet-making, and an employee who has received training in air and powerplant maintenance.

There are approximately 15 employees classified as heavy-duty cleaners. Their cleaning tasks require the use of power equipment, such as vacuums and carpet cleaners, which is stored about 40 feet from the maintenance department. In addition, they repair small machines, mow lawns, set up decorations, move equipment and supplies, and assist maintenance employees by bringing them equipment and supplies. One heavy-duty cleaner does upholstery work and drills cards and dice for purposes of ensuring the Employer's compliance with applicable gaming laws.

Additionally, there are approximately 84 employees classified as cleaners, who perform general housekeeping functions. They polish, empty trash, and clean the facility and equipment with the use of mops, dusters, and cleaning products that are stored throughout the facility.

Maintenance and heavy-duty employees interact frequently on the job. Thus, on construction projects, heavy-duty employees assist maintenance employees by bringing supplies to them and cleaning up the site after the project is completed. Although not a routine occurrence, cleaning employees may sometimes perform jobs that are designated maintenance work, such as hanging pictures, changing light bulbs, and replacing switches. Similarly, many of the maintenance employees spend all or most of their time performing jobs that do not utilize their skills on the job all or most of the time. Thus, during the summer, maintenance employees interact with heavy-duty employees by performing landscaping work between 20 and 30 percent of the time. Some work, such as drilling holes in play-

<sup>1</sup> Prior to October or November of 1994, however, maintenance employees had their own budget, and the other two classifications within the department were grouped together administratively.

ing cards and dice, which was once a maintenance job, is now performed by heavy-duty cleaning employees. Furthermore, maintenance employees have used heavy-duty equipment, such as power vacuums, when the situation has required it, and are expected to contribute to the overall cleanliness of the premises by, for example, emptying ashtrays that they see are overflowing—work routinely performed by cleaning employees. Additionally, all employees both within and outside the EVS and maintenance department share common benefits and labor relations policies, as well as common facilities, such as the lunchroom and parking lot.

The Employer contends that the only appropriate unit consists of all employees in the department because they share a community of interest based on common supervision, interchange, functional integration, and common labor relations policies. The Employer also argues that the maintenance employees do not possess a sufficient level of skill or experience to justify their being found a separate appropriate unit. The Petitioner contends that the maintenance employees constitute a separate appropriate unit because of the similarity of their skills, duties, and working conditions and that the Employer's EVS and maintenance department is not so functionally integrated as to make the petitioned-for unit inappropriate.

In concluding that a separate unit of maintenance employees is appropriate, the Acting Regional Director relied on his finding that maintenance employees have separate skills and functions; he also relied on factors of autonomy within the Employer's organizational structure and separate immediate supervision. He concluded that a separate unit is justified on these factors, notwithstanding some transfer and interchange between classifications and common labor relations policies. We do not agree.

Since *American Cyanamid Co.*, 131 NLRB 909, 910 (1961), the Board has held that a separate unit of maintenance employees may be appropriate when the record establishes "that maintenance employees are readily identifiable as a group whose similarity of function and skills create a community of interest such as would warrant separate representation." Contrary to the Acting Regional Director, we do not find that the record here supports a finding that the maintenance unit sought is composed of a distinct and homogeneous group of employees with interests separate from others in their department.

First, all employees in the EVS and maintenance department are grouped administratively in the same department of the Employer's operations and have the same overall supervision. Although, as the Acting Regional Director notes, maintenance employees at one time in the Employer's brief history had a separate budget and payroll department, that is no longer the case, and since about October 1994, maintenance em-

ployees have been grouped with heavy-duty cleaners for budgetary and payroll purposes.

Second, employees within the EVS and maintenance department, including cleaners and heavy-duty cleaners, share not only the same overall supervision but also some common immediate supervision. Thus, although there is one supervisor, Terry Felowitz, to whom maintenance employees specifically report, there are four other supervisors within the department, three assigned to cleaners and one to heavy-duty cleaners. All five of these supervisors possess, and at least some have exercised, authority to direct and discipline any employee in the department as necessary. This authority is significant in terms of common direct supervision within the department because there are weekend days and weekday shifts in the 24-hour-per-day, 7-day-per-week operation of the casino when maintenance employees work and Felowitz is not present, and therefore those maintenance employees are more frequently under the watch of the other supervisors in the department.<sup>2</sup>

A further factor weighing against the appropriateness of a separate unit of maintenance employees is the number of transfers among department classifications. The Employer recognizes a progression within the department from cleaner to heavy-duty cleaner to maintenance. Thus, over the relatively short period of less than 2 years, seven cleaning employees have become heavy-duty employees, and one of these moved on to become a maintenance employee. Further, four additional heavy-duty cleaners have become maintenance employees, and one former part-time maintenance employee later became a full-time heavy-duty cleaner.

The petitioned-for maintenance employees are not craft employees, and, although there is no dispute that some of them are skilled,<sup>3</sup> we find, as in *Monsanto*

<sup>2</sup> Similarly, the supervisors to whom heavy-duty and cleaning employees report also work only on one shift, while their respective employees work all shifts. Thus, employees in these classifications report to different supervisors on the shifts their immediate supervisors do not work. Although, as found by the Acting Regional Director, maintenance employees on these shifts receive their assignments through work orders, the record indicates that work orders for maintenance employees originate not only from Maintenance Supervisor Felowitz, but from other EVS and maintenance department supervisors as well.

<sup>3</sup> At least four employees have carpentry and cabinetry skills; one painter has completed an apprenticeship program; another specializes in painting and paperhanging; one employee has electrical skills; one works as a locksmith; one is a licensed plumber with HVAC servicing experience; and two perform exterior boat painting.

That the current maintenance employees may have some slightly greater skills than their nonmaintenance counterparts might be a factor supporting a separate unit. It is but one factor to be considered, however, and it is outweighed here by all other relevant factors. Cf. *Ore-Ida Foods*, 313 NLRB 1016, 1019 fn. 3 (1995), enf'd. 66 F.3d 328 (7th Cir. 1995), relied on by the Acting Regional Director, in which a maintenance unit composed of skilled, though not craft, employees was found appropriate when those employees had their own

Co., 183 NLRB 415 (1970), that “the employees sought are a diverse group ranging from unskilled custodians to relatively skilled technicians.” Id. at 417 fn. 5. See also *Greater Bakersfield Memorial Hospital*, 226 NLRB 971, 973 (1976) (40 percent of the unit sought had transferred into maintenance jobs). Furthermore, under the Employer’s current hiring policy,<sup>4</sup> maintenance employees are not required to be licensed or to have any special certification or schooling. See id. Our finding in this regard is underscored by the frequent job interaction between maintenance and heavy-duty employees, and the fact that many of the maintenance employees do not use their skills on the job all or most of the time.

Accordingly, we conclude that the common supervision and relative fluidity of movement and job inter-

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separate department and separate supervision and limited contact and interchange with the excluded production employees.

<sup>4</sup>When the Employer commenced operations, it advertised for applicants with skills and experience in carpentry; electricity; heating, venting, and air conditioning; and plumbing. The Employer no longer seeks to fill maintenance worker vacancies with applicants with these skills unless it is replacing one of its current skilled workers. In fact, it now encourages and gives preference in hiring to its own heavy-duty cleaning employees.

action of employees within the EVS and maintenance department, together with other traditional community-of-interest criteria, compel a conclusion that all employees in the maintenance employee classification constitute the minimum appropriate unit. See *Harrah’s Club*, 187 NLRB 810, 812 (1971). In that case, involving another of the Employer’s operations, the Board rejected the appropriateness of a separate maintenance unit in a gambling casino complex, finding instead that the “minimum” appropriate unit must include employees engaged in cleaning and repair functions without regard to the employer’s departmental classifications. In that case, as here, those involved in cleaning functions were required to work in conjunction with repairmen in the performance of a variety of tasks. In such circumstances, maintenance mechanics do not comprise a homogenous grouping of employees warranting a separate unit. Because the Petitioner is unwilling to proceed to an election in an expanded unit, we shall dismiss the petition.

#### ORDER

The petition is dismissed.